

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF FRANK	)	APPEAL NOS. 06-A-2195,
AND CRYSTAL HEGY from the decision of the	)	06-A-2196 and 06-A-2197
Board of Equalization of Elmore County for tax	)	FINAL DECISION
year 2006.	)	AND ORDER

**RESIDENTIAL PROPERTY APPEALS**

THESE MATTERS came on for hearing November 2, 2006, in Mountain Home, Idaho, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellants Crystal and Frank Hegy appeared. Assessor Jo Gridley, Prosecuting Attorney Kristina Schindele, Residential Appraiser Connie Dorr and Chief Appraiser Jody Soboslai appeared for Respondent Elmore County. These appeals are taken from a decision of the Elmore County Board of Equalization denying the protests of the valuation for taxing purposes of property described as Parcel Nos. RP000680020020A, RP000680020030A and RP000680020040A.

**The issue on appeal is the market value of residential property, particularly the land component.**

**The decision of the Elmore County Board of Equalization is affirmed.**

FINDINGS OF FACT

The three (3) subject parcels are assessed for \$45,337 (land), \$159,472 (land and improvements), and \$50,375 (land). At hearing, Appellants requested the parcels be valued as a single unit. Appellants requested the land value be reduced to \$90,000, allocated equally among the three lots at \$30,000 each.

The subject parcels are contiguous lots in Block 2 of Jim Carrie's Alpine Meadows Subdivision, located near Pine in Elmore County. The subject Lots 2 and 3 are each .410 acres, and the third Lot 4 is .510 acres. Appellants purchased the lots individually over the years and

have built a log cabin on Lot 3, the center lot. The cabin is used for recreational purposes and Appellants describe it as “modest.” Although Appellants state the cabin is unfinished, they do not dispute the assessed value of the improvements (cabin and detached garage).

Each lot has power and water available to it. Appellants use Lots 2 and 4 primarily as “buffer” lots between their cabin and the neighbors. However, the cabin and attached deck encroaches onto Lot 4 by approximately 10 feet. Appellants’ gravel driveway to the detached garage encroaches slightly onto Lot 2. Respondent has been unable to determine whether the detached garage itself encroaches onto Lot 2, but concedes that it is possible it may. Appellants do not intend to sell either Lot 2 or Lot 4 separately. While they acknowledge the lots could be sold and built on, they believe this is complicated and unlikely given the setbacks that need to be considered. Respondent concluded that the encroachments are not so significant that Appellants would not be able to deed off a portion of Lot 2 and Lot 4 and sell it as a buildable site. Consequently the Assessor valued the three subject lots separately.

All three lots have a relatively unique double frontage abutting an Elmore County Highway on one side, commonly referred to as the Pine Highway, and a private subdivision road, Snowflake Drive, on the other. In addition, Lot 2 has some impediments to excavation including rock outcrops, valleys, and holes. As a result of the Lot 2 topography, Respondent valued it about 10% less than the other two lots.

Respondent’s Exhibit 1 outlines the 2006 assessment of the three subject parcels. Respondent reviewed sales of subdivision properties in the area to determine the market value of the subject properties. Three selling lots of similar size to Appellants’ were located either in subjects’ subdivision or a neighboring subdivision. One lot sold for \$55,000, and had an assessed value of \$32,000. Another lot sold for \$46,000 and had an assessed value of \$33,888.

A third lot sold for \$55,000 and its assessed value was \$50,000. (Respondent's Exhibit 1, p. 7.) Respondent attempts to assess properties consistent with an assessed value to sales price ratio of greater than 90%.

Relative to the double frontage, one lot in Appellants' subdivision sat on a corner and had frontage on two (2) private roads. Although the lot was larger than Appellants', the setbacks due to a drainage field reduced the lot effectively to .31 acres of buildable land. The residences are not comparable, but Respondent relied on the analysis to address the issue of double frontage. (Respondent's Exhibit 1, pp. 8-9.) Another sale in Elk Valley Subdivision of 1.2 acres involved double frontage. The property sold for \$125,000 and was assessed at \$93,017.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

The valuation placed on property by the Assessor for tax purposes is presumed to be correct. Therefore, the burden of proof lies with the party challenging the assessment to show by [a preponderance of the] evidence that he is entitled to relief. *Greenfield Vill. Apartments, L.P. v. Ada County*, 130 Idaho 207, 209 (1997); Idaho Code § 63-511(4).

Idaho Code § 63-208 requires the assessor to determine the market value of the property for assessment purposes. The definition of market value is found in Idaho Code § 63-201(10):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full

cash payment.

In determining the value of property, the assessor may and should consider cost, location, actual cash sale value, and all other factors, known or available to his knowledge, which affect the value of the property assessed. *Merris v. Ada County*, 100 Idaho 59 (1979). For residential property like the subjects, an analysis of comparable sales can offer good evidence of market value.

Appellants assert the assessments of the subject properties are not accurate. They believe the buffer lots (Lots 2 and 4) are overvalued because they have no intention of selling those lots separately, and regardless the issue of the encroachments and setbacks would negatively impact the ability to sell the lots. While Appellants may need to retain portions of Lots 2 and 4 to address the encroachments and setbacks, there was no compelling evidence offered at the hearing that the remainder of the lots could not still be sold as a potential building site. Notwithstanding Appellants' intent to retain all three (3) lots, the Board concludes on the evidence before it that the lots could be sold separately.

Appellants also assert the three lots should be valued together with the improvements as a single property unit. Given Appellants current use of the three lots, it would be reasonable to value them together; however we note Appellants have not yet formally requested the parcels be combined into a single assessment parcel that would require such a consideration. Further, there is insufficient evidence to compel a single assessment approach. Nevertheless, there is insufficient evidence to prove the values would necessarily be different.

Further, Appellants contend the fact that the three (3) lots have double frontage was not considered. Respondent presented evidence regarding the sale of another property in subjects' subdivision which has double frontage (two private roads). There was no evidence that the

double frontage, in and of itself, materially impacted the market value of that property. Any such appraisal adjustment would need to be market-based and supported. Appellants did not present any supporting evidence that the double frontage had a negative impact on their property value. Without such evidence, there is an insufficient basis for concluding that Respondent failed to correctly consider the double frontage.

While Appellants believe that the valuations of the subject properties were in excess of their market value, the evidence at the hearing did not support the position. Respondent appears to have relied on trends of previously established values, supported by sales prices for similar properties in the area. There was no evidence establishing that the County assessments or methodology was clearly erroneous. Therefore, Appellants did not meet their burden of proof in this matter.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Elmore County Board of Equalization concerning the subject parcels be, and the same hereby is, affirmed.

DATED this 27th day of April 2007.